

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION FREE CONFERENCE COMMITTEE ON HOUSE BILL 142

**Call to Order:** By **CHAIRMAN WILLIAM CRISMORE**, on April 20, 2001  
at 8:00 A.M., in Room 102 Capitol.

#### ROLL CALL

**Members Present:**

Sen. William Crismore, Chairman (R)  
Rep. Daniel Fuchs, Chairman (R)  
Rep. Paul Clark (D)  
Rep. Jeff Laszloffy (R)  
Sen. Glenn Roush (D)

**Members Excused:** Sen. Pete Ekegren (R)

**Members Absent:** None.

**Staff Present:** Linda Keim, Secretary  
Dave Bohyer, Legislative Staffer

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted:  
Executive Action: HB 142

**CHAIRMAN CRISMORE** opened the Free Conference Committee Meeting on HB 142 and asked that any amendments be handed out. He advised that **SEN. EKEGREN** had another committee meeting to attend and that this committee had his proxy. **Legislative Staffer Dave Bohyer** handed out the first amendment, HB014207, **EXHIBIT (frh89hb0142a01)**. **CHAIRMAN CRISMORE** asked **REP. FUCHS** to give the history of HB 142 and why we are here.

**REP. FUCHS** said there were problems with this bill in the House and he agreed to work on getting the language acceptable in a conference committee. This legislation is important to some people, but according to the debate on the floor, there was a problem with statewide authority. He said they want to make it region specific, the way it came out of the House Fish and Game

Committee. It was sent to sub committee early on with **REP. SOMERVILLE** and they thought it was worked out. Apparently in the conference committee, he was told by the staffer who prepared the amendments, **Mary Vandebosch**, that region one language raised some constitutional questions. **REP. FUCHS** said he disagreed, but **REP. SLITER** thought that we should address that concern in order to cover the possibility of a challenge. At that time, **Greg Petesch, Director of Legal Services**, suggested adding a WHEREAS clause, so there is an amendment prepared to deal with that concern. The other issue that was raised in the House was the ethical fair chase language. **REP. FUCHS** asked **REP. LASZLOFFY** to speak and said there was no amendment prepared for that issue.

**REP. LASZLOFFY** said he was concerned early on, even at the Fish and Game Committee level about inserting language like "fair chase" or "ethical" into statute. He said he did not have a problem with that in rules and doing it administratively. When this bill in its present form got to the House, he did not say anything against the language, but it still came up on the Floor and was one of the major reasons that the bill went down. He said it is still an issue that needed to be dealt with. He said he would like to see this bill pass, because they have a problem in region one, and he would hate to see the bill die in the House because that language is still in the bill. He would like to see the "biologically sound management" language left in there, and the "fair chase principle" and "hunting experience" language removed so that it is not actually in statute. The reason is that it will be problematic again when it gets to the House.

**CHAIRMAN CRISMORE** referred to the amendments on the pink copy and asked for clarification. **REP. LASZLOFFY** said that was the amendment, but the language on the back of the Free Conference Committee Report is the most current, and it would be on page two, line 26. He said the current language on page two, lines 9-11 is more what he had in mind. It deals with deer and elk populations but it says that the commission may exercise rule making authority when necessary and appropriate to regulate the harvest.....for biologically sound management. In this instance it could say "of mountain lion populations". **CHAIRMAN CRISMORE** asked if he would actually strike language on page two, line 26. **REP. LASZLOFFY** said it would read: "Rules may be adopted under this subsection (6) for the purpose of providing for the biologically sound management of mountain lion populations". **Bob Lane, Fish, Wildlife and Parks Department (FWP)** said the Department would suggest taking out the entire sentence. He said **REP. LASZLOFFY** wants to be able to do some of these things by rule, but if they put in the suggested language it only says "biologically sound management of hunting", so that would be the only criteria they could use. If the committee has problems

putting the other language in, the Department suggests the whole sentence be taken out. **REP. FUCHS** asked for clarification: are you suggesting that on page two we strike (b) on line 26, because (b) on line nine would then apply as the rule making authority. **Bob Lane, FWP** said no, he was suggesting that on (b) only the first sentence would be struck, the rest would be left in. Those are issues that deal with the actual situation we have.

**REP. CLARK** said that really solves the problem, because we stay away from that language, yet the bill is trying to manage a specific situation. It is not really based on biology, it is based on social conflict. What you have on page three, line three is conflicts among hunter groups, so it would be covered.

**Legislative Staffer Dave Bohyer** said the amendment would apply to both sections of the bill.

**REP. LASZLOFFY** moved to adopt a conceptual amendment to HB 142 to strike the first sentence on page two, line 26 and on page four, line 14. Motion passed unanimously 6-0.

**REP. FUCHS** moved Amendment HB014207 to HB 142. This is the region specific amendment.

**CHAIRMAN CRISMORE** asked **Bob Lane** if he saw any problems with administering this. **Bob Lane** deferred to **Don Childress, FWP** who said that region one is where the condition currently exists. He can't predict how quickly the same circumstances will move to other regions. He said regions one and two have a lot of similarities and he doesn't think this big of an issue will come up east of the Divide. The reason is because snow conditions are a big factor west of the Divide and they provide for people to plan and do their lion hunting. That is why there are so many lion hunters up there. If they can get there, the hunters know they are going to have good snow conditions and they can cover the country. On the east side of the Divide, snow conditions are very erratic and can't be depended upon, so you don't see a lot of movement until late in the season when a lot of the snow conditions change.

**CHAIRMAN CRISMORE** said he thinks conditions will eventually shift, but not before we come back for the next session. We can come back and look at region two then. If any of you have been up there during that season, you will see how many people really want to be out there.

**REP. LASZLOFFY** asked how much the prices of licenses contribute to this, versus other states or provinces. **Don Childress** said lion prices are comparable. This question came up in House FWP

Committee about the black bear, and there is a big price differential with bears, but lion prices are competitive in that arena. **REP. LASZLOFFY** asked if we could become less competitive, on the high side. **Don Childress** said the issue we were looking at was not so much the price, it was the fact that hound hunting for lions and other species as well had been outlawed through initiatives in many other states. They can no longer hunt, regardless of price.

**CHAIRMAN CRISMORE** said he agreed. People come to his area even from Idaho because they don't have the same opportunities there.

**REP. CLARK** said his concern is that in the long term we have to justify what we are doing, and we do have biological quotas in the different hunting districts. He said he had yet to see the system working and the quota is met and kept. In the last hunting season with a quota of 12, they ended up with 24 taken in one district. He asked how will the bill address that problem. **Don Childress** said this offers them the opportunity to look at regulating the number of nonresident hunters or houndsmen, or a combination of opportunities that will restrict and hopefully reduce the current degree of competition. It is that intense competition that we are dealing with. Timing and posting are also restricted in statute. **REP. CLARK** asked if they have devised a system to regulate out of state hunters and houndsmen. **Don Childress** said they have not devised a system because they are waiting for authority from the Commission to start that process. Idaho has a system concerning the total number of nonresident houndsmen that can be available to hunt, and that is something they will look at. He said that trying to restrict by hunting district is the only opportunity FWP has.

**REP. FUCHS** moved to adopt Amendment 14207 to HB 142. Motion carried unanimously 6-0.

**REP. FUCHS** moved to adopt Amendment 14201 to HB 142, **EXHIBIT (frh89hb0142a02)**. He said this addressed the constitutionality question.

**CHAIRMAN CRISMORE** asked the department if they think this addresses the issue and justifies only putting it in region one. **Bob Lane** said under the text of the constitution, there appeared to be a problem. He is involved in a court case concerning that issue and its interpretation and he said he is not sure if this would apply to the constitution as it exists. He said there was a question that needed to be dealt with. The department's solution is to provide a legislative finding of the facts actually being dealt with. He said he thought that was the right

way to approach dealing with a constitutional issue and was the kind of language they suggest the committee consider.

**REP. FUCHS** commented on the special legislation question and said it doesn't hold water. We have continuously enacted special legislation, and we have local option taxes for some communities and not for others. This question boils down to whether someone is going to find a lawyer and spend the money to try and challenge it. **Bob Lane** said it does merit the legislature being cautious, because part of the solution would be a restriction on nonresidents and that is the kind of issue where someone may get a lawyer. Restricting nonresidents is a major issue for FWP. It is the kind of thing that is going to be litigated someday, someplace. **REP. FUCHS** said he agreed and thinks it is important that we do this. The point he is trying to make is that each of those issues are issue specific and the legislature should never have any fear of being sued over what we are trying to do.

**REP. CLARK** asked if there had been any proposed litigation based on not keeping the biological quotas and not having the capacity to do that over a period of time. He said he was concerned about animal rights groups saying we were not following the law in Montana, because "you have a biological quota and you are constantly violating that quota". **Bob Lane** said he was not aware of any litigation in Montana on that issue. That is something that is litigated in terms of management on the federal level for endangered species, but they have a particular statutory scheme that limits and prohibits under that scheme. We don't have that provision in statute for normal game management. It would be difficult to have something as part of the law that required that we manage for biological and keep to certain district quotas. It is more of a clinical issue in terms of how people view our management and whether we are doing it appropriately or not. He does not think it is subject to legal attack, it is more subject to public opinion and policy on whether we are managing correctly or not if we go over the quota.

**REP. LASZLOFFY** said as a matter of practice when you have a consistent overrun on the quota, when you are setting the quotas, couldn't you just say we generally have a 50% to 70% overrun, so let's just decrease the quota by the proportionate amount knowing we will have that overrun, so we actually hit the target. **Don Childress** said those are options to look at. Reducing quotas and overrunning quotas really gets back to the system we have in place and the biology of how we manage those. One suggestion has been that if we overrun the quota, we reduce the quotas that much the next year. But with the number of people there are up there, once you reduce the quota, the overrun is even higher.

**REP. CLARK** asked if there are any other hunts in Montana that have a quota like the mountain lion hunt. **Don Childress** said there are some sheep areas that have quotas in the unlimited category. They have moved a number of those into a different type of season. **REP. CLARK** asked why the department had not moved mountain lions to a permit system like they have for moose and goats. **Don Childress** said this year the commission put three hunting districts strictly under permits in region one. A consideration is that once you go to that permit level, it is very restrictive. That is part of the issue driving the debate we are having here. Once you go strictly to a permit system, it restricts residents as well as nonresidents. The issue is about 6,000 mountain lion licenses, and the quota is around 700. If those went to a permit system or a variation thereof, there would be a significant reduction in overall opportunity. **REP. CLARK** asked why not have a quota system on moose if that is the case and open up lots of opportunities. **Don Childress** said that we are dealing with a different species in terms of densities and numbers of animals. If we overrun the quota, the long term effects would be adverse.

**REP. FUCHS** moved to adopt Amendment 01 to HB 142. The motion carried unanimously 6-0.

**REP. FUCHS** moved HB 142 as amended. The motion carried unanimously 6-0.

**ADJOURNMENT**

Adjournment: 8:45 A.M.

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SEN. WILLIAM CRISMORE, Chairman

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Linda Keim, Secretary

DF/WC/

**EXHIBIT** (frh89hb0142aad)